

HOUSE BILL 3293  
By Walley

AN ACT to amend Chapter 142 of the Private Acts of 1953; as amended by Chapter 143 of the Private Acts of 1965; Chapter 122 of the Private Acts of 1981; Chapter 57 of the Private Acts of 1983; Chapter 12 of the Private Acts of 1985; Chapter 103 of the Private Acts of 1987; Chapter 104 of the Private Acts of 1987; Chapter 178 of the Private Acts of 1988; and Chapter 51 of the Private Acts of 1991; and any other acts amendatory thereto, relative to the charter of the City of Bolivar.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Article I, Section 1.02(k) of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985; and any other acts amendatory thereto, is further amended, by deleting Section 1.02(k) in its entirety and substituting instead the following:

Voters shall include all persons living within such corporation, and who have been residents thereof for three (3) months previous to the election, and who are entitled to vote for members of the general assembly and nonresidents, who are qualified voters of the state of Tennessee, who own at least a 50% interest in taxable fee simple real property within the corporate limits.

SECTION 2. Article II, Section 2.03 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 143 of the Private Acts of 1965, Chapter 122 of the Private Acts of 1981, Chapter 12 of the Private Acts of 1985, and all other acts amendatory thereto, is further amended by adding after the second sentence the following:

The council shall levy all taxes, apportion and appropriate all funds and it shall make all assessments for the cost of street improvements or repairs which may be specially assessed. It shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the council, or reduced to writing and approved by the council, or expressly authorized by ordinance or resolution adopted by the council.

SECTION 3. Article II, Section 2.03 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 143 of the Private Acts of 1965, Chapter 122 of the Private Acts of 1981, Chapter 12 of the Private Acts of 1985, Chapter 68 of the Private Acts of 1995 and all other acts amendatory thereto, is further amended by adding the following sentence after the sentence "The salaries of the mayor and councilmen shall be paid in monthly installments from the city treasury.":

A council member serving on a utility board, planning commission, or any other board, commission, or committee, shall be compensated the same as any other member of the utility board, planning commission or committee.

SECTION 4. Article II, Section 2.03 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 143 of the Private Acts of 1965, Chapter 122 of the Private Acts of 1981, Chapter 12 of the Private Acts of 1985, and all other acts amendatory thereto, is further amended by deleting the seventh sentence which reads: "Only the business stated in the written call may be transacted at a special meeting, except by unanimous consent of all members of the council." and substituting instead the following:

Only the business stated in the written call may be transacted at a special meeting.

SECTION 5. Article II, Section 2.05, of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985, is further amended by deleting Section 2.05 in its entirety and substituting instead the following:

Beginning in July, 1997, there shall be a vice-mayor who shall be elected at the first regular meeting after each general election by the council from among their number.

The term of office of the vice-mayor shall be for a period of two (2) years. The vice-mayor shall perform the duties of the mayor during his absence or inability to act. In case of a vacancy in the office of mayor, the vice-mayor shall fill out the unexpired term, or until the next regular city election, whichever shall occur first. If the vice-mayor is filling out a term in the office of mayor, his position as a councilman shall become vacant and the council shall fill the vacancy as provided in Section 2.06. The council shall select another of their number to fill out the unexpired term of the vice-mayor.

SECTION 6. Article II, Section 2.06 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 103 and 104 of the Private Acts of 1987, and all other acts amendatory thereto, is further amended by deleting Section 2.06 in its entirety following the enacting clause and substituting instead the following:

That a vacancy shall exist if the mayor or a councilman resigns, dies, moves his residence from the city, moves from the district from which he was elected as provided in Section 2.01, has been continuously disabled for a period of six (6) months so as to prevent him from discharging the duties of his office, accepts any city office or position of employment or is elected to any office in the federal, state, or county government or is convicted of malfeasance or misfeasance in office, a felony, a violation of this Act, or a violation of the election laws of the state. Except as provided in Section 2.01 for a vacancy resulting by a council member moving from the district from which he was elected, the council shall appoint within sixty (60) days a qualified person to fill such a vacancy in the office of councilman for the remainder of the unexpired term. If a tie vote by the council to fill a vacancy is unbroken for fifteen (15) days, the mayor shall appoint a qualified person to fill the vacancy. At no time shall there be more than two members so appointed holding office, and if a vacancy occurs with two members so appointed on the council, a special election shall be held by the county election commissioners on the eighth Thursday following the occurrence of the vacancy and a councilman shall be elected to serve the remainder of the unexpired term of the vacant office; provided that

no such election shall be held if a regular biennial election will occur within six (6) months. Candidates in such a special election shall be nominated by petitions as provided in Section 2.01 of this Act.

SECTION 7. Article II, Section 2.08 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting in the first sentence the words “for the administrative term of four (4) years who shall serve” and substituting instead the following:

“who shall serve at the pleasure of the council”

SECTION 8. Article II, Section 2.10 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985, is further amended by deleting the eighth and ninth sentences as follows:

The mayor shall examine all ordinances, resolutions and motions to be passed by the council and affix his signature thereon unless he disapproves such action which he will have the power to veto. Any ordinance, resolution or motion so vetoed by the mayor can only be passed over his veto by the affirmative vote of two-thirds (2/3) of the entire council.

and by substituting instead the following:

All ordinances shall be signed by the mayor before they shall become effective. The mayor shall affix his approval or disapproval within ten (10) days after final adoption by the council. If the mayor withholds his signature for ten (10) days, the ordinance shall become effective for failure to veto. The mayor shall state his reasons for vetoing an ordinance in writing and shall transmit his reasons and the ordinance back to the council before the next regular meeting for its action. At the first regular meeting after receiving the veto message, the council may pass the ordinance over the veto by the affirmative vote of two-thirds (2/3) of the entire council.

SECTION 9. Article III, Section 3.01 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 and Chapter 103 of the Private Acts of 1987 is further amended by deleting Section 3.01 in its entirety and substituting instead the following:

The city government shall be organized into such departments and offices as shall be provided by ordinance, but no such ordinance shall be adopted until the council has received and considered the written recommendations of the mayor. The mayor shall provide written recommendations to the council at or before the next regular council meeting. The council shall determine by ordinance the functions and duties of all departments and offices. The council may establish; abolish, merge, or consolidate offices, positions of employment and departments; may provide that the same person fill any number of offices and positions of employment; and may transfer or change the functions and duties of offices, positions of employment and departments.

SECTION 10. Article III, Section 3.03 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting Section 3.03 in its entirety and substituting instead the following:

At the beginning of each mayoral term, the mayor shall appoint a city attorney, subject to the approval of the city council. The city attorney shall serve at the pleasure of the mayor. The mayor shall also appoint, with approval of the council, any assistant city attorneys authorized by ordinance who shall serve at the pleasure of the mayor. The city attorney shall be responsible for advising the mayor and council and officers and employees concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions and other official documents; and performing other duties as may be prescribed by the council.

The city attorney may receive such compensation as shall be set by the council.

SECTION 11. Article III, Section 3.04 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting Section 3.04 in its entirety and substituting instead the following:

(a) City Judge - appointment, term. A city judge, who shall be a licensed attorney, shall constitute the city court and shall be appointed by the mayor with the consent of the council to serve at the will of the mayor or for a term to be fixed by ordinance. He shall not be less than 25 years of age. The mayor may appoint a licensed attorney to serve in the absence or incapacity of the city judge.

(b) Jurisdiction, power, compensation. The jurisdiction of the city judge shall extend to the trial of all offenses against the ordinances of the city, and costs in such trials shall be fixed by ordinance. The city judge shall have power to levy fines, penalties, forfeitures and costs, to issue all necessary process, to administer oaths, and to maintain order including the power which justices of the peace have to fine for contempt. The sole compensation for serving as city judge shall be a salary fixed by the council, and all fees for actions or cases in his court shall belong to the city and shall be paid into the city treasury.

(c) Bail. The bail of persons arrested and awaiting trial and persons appealing a decision of the city judge shall be fixed by the city judge, upon such security as in his discretion he deems necessary or as may otherwise be provided by ordinance. Cash bail of persons arrested may be accepted at such times and by officers or employees other than the city judge as provided by ordinance; such ordinance shall require that the person arrested be given a receipt for cash bail which shall explain the nature of the deposit. The receipt shall be in triplicate; original to the depositor, duplicate and money to the city recorder and triplicate to the city judge within 24 hours after the arrest.

(d) Fines and costs. Fines and costs may be paid by installment to be fixed and security determined as provided by ordinance. Upon failure to pay fines and costs or to furnish security, the city judge shall commit the offender to the city jail or workhouse until such fines or costs have been paid at a daily rate of commutation fixed by ordinance, but no person shall be continuously confined in excess of sixty (60) days. Receipts of the

city court shall be deposited daily with the city recorder and the city judge shall make monthly reports thereof to the council.

(e) Docket. The city judge shall keep a docket of all cases handled by him.

(f) Separation of powers. The city judge shall be exclusive judge of the law and the facts in every case before him, and no officer or employee of the city shall attempt to influence his decision except through pertinent facts presented in open court.

SECTION 12. Article III, Section 3.05 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting Section 3.05 in its entirety.

SECTION 13. Article III, Section 3.06 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985, is further amended by deleting Section 3.06 in its entirety following the enacting clause and substituting instead the following:

That the council by ordinance, may establish offices and positions of employment but no such ordinance shall be adopted until the council has received and considered the written recommendations of the mayor. The mayor shall provide written recommendations to the council at or before the next regular council meeting. The powers and duties of such offices and positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the mayor as provided in Section 2.12 of this Act, but in any event, the mayor may require officers and employees of the city, except those appointed by and accountable to the council, to perform such additional duties as may be considered necessary by him for the proper and efficient conduct of the city's affairs. The council may by ordinance establish boards or commissions to operate the public utilities owned by the city, or may perform such duties themselves. The salaries of all employees of the city shall be fixed by the council under a pay plan applying uniformly to all employees having similar responsibilities and doing like work.

SECTION 14. Article III, Section 3.07 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting Section 3.07 in its entirety following the enacting clause and substituting instead the following:

That all employees of the city, except as otherwise provided in this Act, shall be appointed, promoted, demoted, transferred, suspended and removed by the mayor or boards, commissions, officers, and department heads given this authority by the mayor. During a suspension, an employee's salary may be reduced or eliminated, as determined by the mayor. Before suspending or removing an employee, the mayor shall serve the employee with a written notice of intention to suspend or remove him, containing a clear statement of the grounds for such proposed action. Any suspension for more than ten (10) days or termination may be appealed to the personnel board by filing, within ten (10) days, with the city administrator written notice of intention to do so. The personnel board shall be composed of three (3) members of the council appointed by the council. The personnel board shall elect a chairman from its membership and shall adopt rules governing conduct of its business. The decisions of the personnel board may be appealed to the full council. The decision of the council shall be final.

SECTION 15. Article III, Section 3.10 of Chapter 142 of the Private Acts of 1953, is amended by deleting the first sentence in its entirety and substituting instead the following:

That no officer or employee of the city, other than the mayor and councilmen, shall continue in the employment of the city after becoming a candidate for nomination or election to any city office. Any member of the council of the city of Bolivar, that desires to run for the office of mayor shall resign their position on said council prior to qualifying for the mayor's office unless such council member's term expires on the first day of July following the election.

SECTION 16. Article IV, Section 4.03 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting the word and figure "seven (7)" and substituting instead the word and figure "ten (10)".



SECTION 17. Article IV, Section 4.04 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting the last sentence and substituting instead the following:

Amendments may be made to the original appropriate ordinance at any time during a current fiscal year after a public hearing before the council.

SECTION 18. Article IV, Section 4.07 of Chapter 142 of the Private Acts of 1953, as amended by Chapter 12 of the Private Acts of 1985 is further amended by deleting Section 4.07 in its entirety following the enacting clause and substituting instead the following:

That the mayor may sell any city property which is obsolete, surplus or unusable, if the proceeds do not exceed five hundred dollars (\$500.00), without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale producing more than five hundred dollars (\$500.00). Any sale for more than one thousand dollars (\$1,000.00) or any sale of real estate shall be subject to approval by the council.

SECTION 19. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the governing body of the City of Bolivar. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Bolivar and certified to the Secretary of State.

SECTION 20. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 19.

AN ACT to amend Chapter 142 of the Private Acts of 1953; as amended by Chapter 143 of the Private Acts of 1965; Chapter 122 of the Private Acts of 1981; Chapter 57 of the Private Acts of 1983; Chapter 12 of the Private Acts of 1985; Chapter 103 of the Private Acts of 1987; Chapter 104 of the Private Acts of 1987; Chapter 178 of the Private Acts of 1988; and Chapter 51 of the Private Acts of 1991; and any other acts amendatory thereto, relative to the charter of the City of Bolivar.

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